

(i) Such parent fails to make good progress in successfully completing educational activities, or

(ii) Prior to any assignment of the individual to such educational activities it is determined, based on an educational assessment and the employment goal established in the individual's employability plan, that participation in educational activities is inappropriate for such parent.

(b) If a State IV-A agency requires an individual who has attained the age of 20 years and has not earned a high school diploma (or its equivalent) to participate in JOBS, the State agency shall include educational activities consistent with her employment goals as a component in the individual's employability plan. Any other services or activities may not be permitted to interfere with her participation in appropriate educational activities under § 250.44. However, a State IV-A agency may elect not to require an individual to participate in educational activities if:

(1) The individual demonstrates a basic literacy level; or

(2) The long-term employment goal of the individual, as identified by the State IV-A agency in her employability plan, does not require a high school diploma (or equivalent).

§ 250.33 Participation requirements for unemployed parents.

(a) The State IV-A agency shall require that at least one parent, in any family eligible for AFDC by reason of the unemployment of the parent who is the principal earner, participate for a total of at least 16 hours a week in a work supplementation program, a community work experience program, or other work experience program, on-the-job training, or a State-designed work program described in the State JOBS plan and approved by the Secretary. A State-designed work program may not substitute education or training activities for the work requirement.

(b) In the case of a parent under age 25 who has not completed high school or an equivalent course of education, the State IV-A agency may require the individual to participate in educational activities as defined at § 250.44(a) in

lieu of one or more of the programs specified in paragraph (a). An individual meets the participation requirements of this section if he or she is making satisfactory progress as defined at § 250.1.

(c) An individual participating in a community work experience program under § 250.63 shall be considered to have met the participation requirement in paragraph (a) if the individual participates for the maximum number of hours in any month calculated in accordance with § 250.63(d)(1).

§ 250.34 Sanctions.

(a)(1) When an AFDC recipient who is required to participate in the JOBS program, including those individuals required to participate because the State IV-A agency exercised its option under § 250.30(b)(9)(iii), fails to comply (i.e., fails without good cause to participate in the program, refuses without good cause to accept employment, or terminates employment or reduces earnings without good cause), the sanctions in paragraph (c) of this section shall apply during the following periods:

(i) For the first such failure to comply, until the failure to comply ceases;

(ii) For the second such failure to comply, until the failure to comply ceases, or 3 months, whichever is longer; and

(iii) For any subsequent failure to comply, until the failure to comply ceases, or 6 months, whichever is longer.

(2) Failure to participate in the program includes failure to meet State IV-A agency requirements for orientation, assessment, employability development planning, or case management.

(b) For the purpose of determining that an individual's failure to comply has ceased, a State IV-A agency may require the individual to participate in the activity to which she was previously assigned or an activity designed by the State to lead to full participation for a period of up to two weeks before terminating the sanction. During such participation, the individual shall be eligible for child care and support services which the State determines are necessary for participation. If she successfully participates in such

activities, the sanction will be considered to have terminated as of the day she agreed to participate. If no such activity is available, the sanction will terminate on the day she agrees to participate.

(c) During the sanction period:

(1) The State IV-A agency will not take into account the individual's needs in determining the family's need for assistance and the amount of the assistance payment.

(2) If the individual is a parent whose family is eligible in accordance with § 233.100, the State IV-A agency will not take into account the needs of the second parent in determining the family's need for assistance and the amount of the assistance payment unless the second parent is participating in the JOBS program.

(3) If the individual is the only dependent child, the State IV-A agency will not take into account the individual's needs in determining the family's need for assistance and the amount of the assistance payment.

(d) If such individual is a parent or other caretaker relative, payments for the remaining members of the assistance unit will be in the form of protective or vendor payments in accordance with § 234.60(a)(12). However, if after making reasonable efforts the State IV-A agency is unable to locate an appropriate individual to whom protective payments can be made, the State may continue to make payments on behalf of the remaining members of the assistance unit to the sanctioned caretaker relative.

(e) The State IV-A agency will promptly remind in writing any individual whose failure or refusal has continued for 3 months of the individual's option to end the sanction. The notice shall advise that:

(1) She may immediately terminate the first or second sanction by participating in the program or accepting employment; and

(2) She may terminate any subsequent sanction after six months have elapsed by participating in the program or accepting employment.

§ 250.35 Good cause.

For the purposes of § 250.34(a), good cause for failure to participate in the

program or refusal to accept employment shall be found if:

(a) The individual is the parent or other relative personally providing care for a child under age 6 and the employment would require such individual to work more than 20 hours per week;

(b) Child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to participate or continue participation in the program or accept employment and such care is not available and the State agency fails to provide such care;

(c)(1) The employment would result in the family of the participant experiencing a net loss of cash income. A participant may not claim good cause under this paragraph if the State IV-A agency assures that the family will not experience a net loss of cash income by making a supplemental payment;

(2) Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the individual was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income and cash assistance; or

(d) The individual meets other grounds for good cause set forth by the State IV-A agency in its JOBS plan. At a minimum, the State must describe what circumstances beyond the household's control will constitute "good cause."

§ 250.36 Conciliation and fair hearings.

(a) Each State IV-A agency shall establish a conciliation procedure to resolve disputes related to an individual's participation in the JOBS Program.

(b) Once conciliation ends and the notice of adverse action has been issued, the individual may contest the proposed sanction. If she contests and loses, or does not contest, then a sanction will be imposed for the appropriate time period.

(c) If a dispute is not resolved through conciliation, the State shall provide the individual with an opportunity for a hearing. The hearing process may follow the provisions of